

REMARKS

(Appln. No. 10/631,118-Amendment G)

Reconsideration of the objection to claim 102 under 35 U.S.C. 112 is respectfully requested in light of the amendment to claim 102. Claim 102 now specifies that the operations mode is “simulated” instead of being demonstrated which should eliminate any alleged confusion on the part of the examiner.

Moreover, the stated reason for asserting that the claim is indefinite is that the claim, itself, does not explain how a heater or valve can be demonstrated without actually being operated. This is clearly not a proper reason for asserting that the claim is indefinite, because the purpose of a claim is to claim and define the invention. It is not the function of a claim to explain how the invention works. It is the function of the specification to explain how the invention works. A failure of a claim to explain how an invention works cannot therefore constitute a basis to assert that the claim is vague or indefinite.

Moreover, it should be obvious to anyone skilled in the art as to how a demonstration mode demonstrates without actually performing a function. A demonstration mode demonstrates the operational mode by actuating the various indicators to simulate a normal operational mode.

Further, claim does not have to make clear how a heater or valve can be demonstrated without actually being operated, because the claim does not specify or attempt to specify how the heater and valve are being demonstrated. What the claim does specify is that the “operational mode” is being demonstrated. Because the claim is not intended to specify that demonstration of the “heater or valve”, it is therefore completely irrelevant that the claim does not do so. It is the examiner’s reasoning, and not the claim, that is unclear.

Finally, the specification explains how the operational mode is demonstrated, or simulated, without operating the heater or the valves:

At page 10 it is specified that:

“In accordance with another aspect of the invention, a demonstration mode is provided in which the lighting of the different switches is demonstrated while the actual opening and closing of valves and the heating of the hot water is inhibited to facilitate training of new

operators without risk of inappropriate entries and without the necessity of actually performing brew cycles. In this mode of operation, the energization of the heating element is inhibited and opening of the various brew valves in response to actuation of the control switches or otherwise in accordance with the operating program is inhibited. Otherwise, in the demonstration mode, the brewer operates in accordance with the normal operating software."

At page 23-24 it is specified:

"When in the diagnostics mode, if the stop brew switch is actuated for three seconds in step 153, the program then enters and operates in the demo mode 155, or demonstration mode. In the demo mode 155 the lighting of the different switch icons and timing of different operation when switches are actuated is demonstrated while the actual opening and closing of valves and the heating of the hot water is inhibited to facilitate training of new operators without risk of inappropriate entries and without the necessity of actually performing brew cycles. In this mode of operation, the energization of the heating element, or heater 35 is inhibited and opening of the various brew valves, dispense valves bypass valves and fill valve in response to actuation of the control switches or otherwise in accordance with the operating program is inhibited. Otherwise, in the demo mode 155, the brewer operates in accordance with the normal operation mode 146, as illustrated and described with reference to Figs. 12A and 12B. If the stop brew switch is actuated for three seconds in step 157, the demo mode is exited, and the normal operation mode 146 is entered. When in the normal operation mode 146, if in step 157, the stop brew switch is actuated for three seconds, then the program mode 148 is again entered, and the loop continues, as shown and described above."

For the foregoing reasons, the objection to claim 102 under 35 U.S.C. 112 is without merit should be withdrawn.

Reconsideration of the rejection of claim 102, 103, 105 and 124 as being unpatentable over Warne in view of fisher et al. is requested in light of the amendment to claim 102 and for the following reasons. It has been conceded that Warne fails entirely to show a demonstration mode and thus there is no way to selectively operate the food processing apparatus in accordance with such a demonstration mode.

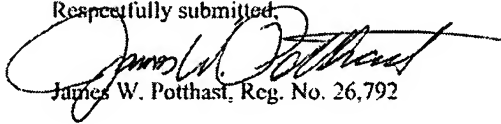
Likewise, although Fischer et al. alludes to a demo mode, there is no enabling disclosure of such a demo mode. The only passing reference to demo mode is found at col. 7, lines 38-40, and nothing further is stated. Fisher et al. merely states that a demo mode could be provided and does not even state that such a demo mode is added. There is no explanation of how the demo mode operates. There is no explanation of precisely what is being demonstrated other than to state that there is no actual heating of the elements when in the demo mode. There is no

explanation how the demo mode is to be implemented. There is no explanation of whether the demo mode is demonstrating a "normal mode of operation". Fisher et al. therefore lacks an adequate disclosure to enable practicing the use of such a demo mode. Withdrawal of the rejection and allowance of all the claims at issue is therefore respectfully requested.

It is also requested that the finality of the last Office Action be withdrawn as being premature. The examiner has rejected the claim on the basis of new art not previously cited. There is no assertion that the new search and the new grounds of rejection were occasioned by any amendment to the claims, and, in fact, they were not. The only amendment to claim 102 was rearrangement of the elements of the claim to conform to the arrangement found in independent claim 123. Claim 102, as filed, specified a demonstration mode and the only claim amendment with reference to the demonstration mode were merely for clarification purposes and did not create any new issues. The examiner should have cited French et al. in the first instance. It is apparent that the only reason for the new search was that it was amply illustrated in the Remarks of Amendment E that Warne which had been relied upon to reject the claims failed to provide any support for a demonstration mode and thus provide no basis for the rejection. This fact could not be refuted and it is now admitted that Warne has no demonstration mode. It is therefore respectfully submitted that the finality of the Office Action is premature and should therefore be withdrawn.

Reconsideration and allowance of all claims at issue are therefore respectfully solicited.

Respectfully submitted,



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